

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

GEORGEANN PIETERS.

Serial No.: 09/849,759

Filed: May 4, 2001

Art Unit: 1771

Examiner: Jennifer A. Boyd

Atty Dock No.: 00-053

COMPOSITE MATERIAL

Pittsburgh, Pennsylvania 15219
March 22, 2005

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March 22, 2005	
Dated	

**APPELLANT'S APPEAL BRIEF PURSUANT
TO 37 C.F.R. §1.191**

The above-identified application comes before the United States Patent and Trademark Office Board of Appeals and Interferences from a Final Rejection of Claims 1-7, 10-16, 19 and 24 dated June 24, 2004. No Advisory Action has been received by Applicant.

I. REAL PARTY IN INTEREST

Georgeann Pieters, the inventor in the above-identified application, is the real party in interest.

II. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

III. STATUS OF THE CLAIMS

Claims 1-7, 10-16, 19 and 24 are pending and are the subject of this appeal. Claims 8, 9, 17, 18 and 20-23 are canceled. Claims 1-7, 10-16, 19 and 24 are rejected under 35 U.S.C. Section 103(a).

IV. STATUS OF AMENDMENTS

No amendment has been filed subsequent to final rejection.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The present invention provides a composite material including a base material 10 that is preferably first cut to a desired size. The base material 10 can, for example, be a woven material or a non-woven material. Base material 10 allows use of a binder material such as an acrylic polymer medium 20 (for example, of the type typically used by artists) to bind to base material 10 and other materials such as, for example, a paper, a lightweight material or other decorative or textured material, layer or touch. Base material 10 is preferably a relatively strong material after application of the binder material thereto (typically, in liquid form) in that base material 10 preferably resists tearing and other damage under the stresses experienced in application of other layers thereto as described below.

During production of the composite material of the present invention, base material 10 is preferably covered or painted with a substance such as diluted polymer medium 20 on one side thereof and allowed to dry to form a first layer or film 40 as illustrated in Figure 1B of the specification. Layer 40 preferably forms a protective layer over base material 10 and is preferably flexible (when dried or fixed) such that the flexibility of base material 10 is not substantially impaired. Moreover, layer 40 is also preferably durable and water resistant or waterproof. Polymer mediums used in the present invention typically comprise an aqueous acrylic polymer dispersion, that can, for example, be stabilized with ammonia.

The other side of base material 10 is also preferably coated with a substance that can act as a bonding material between base material 10 and a decorative/textured layer 60. In one embodiment, diluted polymer medium 20 forms a second polymer layer 50 thereon as illustrated in Figure 2. While this side of the base material 10 is still wet with the applied polymer medium 20, at least one decorative and/or textured layer 60 including, for example, a sheet of textured paper, lightweight material or other decorative/textured layer or material, is applied to or pressed onto the polymer layer 50 as illustrated in Figure 4 of the specification. The material of layer 50 must be adapted to securely bond decorative layer 60 to base material layer 10. Acrylic polymer medium 20 has been found to form an excellent bond between base material 10 and decorative layer 60. Decorative layer(s) 60 preferably provides texture, embellishment and/or ornamentation to the appearance of base material 10.

Decorative layer(s) 60 can be chosen from a wide variety of materials including, for example, white or colored calender or plate finish tissue paper like that used for wrapping paper or any non-woven material of similar weight and characteristics which can adhere to base layer 10 via a bonding medium. In the case that paper or other lightweight sheeting material is used in decorative/textured layer 60, the paper or other sheeting material can first be textured by, for example, wrinkling as illustrated in Figures 3A through 3C of the specification. While wrinkling of the paper, lightweight material or other decorative layer 60 is not necessary, it is desirable from the standpoint

of producing texture or three-dimensional features, which add interest and uniqueness to the finished product.

A second decorative/textured material layer (not shown) and additional decorative/textured material layers can be added as well using the same or a similar process as described for decorative layer 60. Other layers of decorative material/binder material are represented as layer 70 in Figure 6 of the specification.

As illustrated in Figure 5 of the specification, after application as described above, decorative layer 60 is preferably coated with a third film or layer 80 to form composite material 100. Third film or layer 30 preferably assists in fixing or binding decorative layer 60 to the remainder of the materials. Third film or layer 30 is preferably flexible and adapted to exhibit the ornamental, textural features of decorative layer 60. In that regard, third layer, for example, preferably does not completely mask any three-dimensional nature or ornamental coloring of decorative layer 60. Third layer 80 is thus preferably a relatively thin layer of a translucent or transparent material. Third layer 80 is also preferably a protective layer that is water resistant or water proof when set or dried. Polymer medium 20 discussed above is a suitable material to form a third polymer layer 80. While polymer medium 20 of third polymer layer 80 is still wet, the material can be colored with, for example, paints or dyes as desired as represented by hatching lines 85 in Figure 5. Composite material 100 is then allowed to dry.

As illustrated in Figure 6, a backing 90 such as woven sheeting fabric can optionally be fused to first layer 40 (using, for example, additional polymer medium 20 or other binder or adhesive material(s)) or attached via, for example, threading to create a composite material 100' for additional resistance to stress. An example of a suitable woven sheeting fabric is percale. Non-woven fabric may be used as a backing, but a woven fabric, with it's criss-cross threading, is preferred as it is generally stronger and more resistant to stress.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1 - 7, 10 - 16, 19 and 24 stand rejected under 35 U. S. C. 103(a) as being unpatentable over Takahashi et al. (US 5,928,778) in view of Davis (US5,037,700).

VII. ARGUMENT

Rejections under Section 103(a)

In the final Office Action dated June 24, 2004, the Examiner rejected claims 1-7, 10-16, 19 and 24 under 35 U. S. C. 103(a) "as being unpatentable over Takahashi et al. (US 5,928,778) in view of Davis (US 5,037,700)." The Examiner further indicated that "the details of the rejection can be found in paragraph 2 of the previous Office Action mailed December 18, 2003.". In that regard, the Examiner asserted in paragraph 2 of the Office Action mailed December 18, 2003 that:

Takahashi teaches a decorative material which is excellent in flexibility and abrasion resistance (Abstract). The decorative material of this invention can be used for various purposes such as decorating surfaces of buildings, vehicles, ships, furniture, musical instruments, cabinets and decorating wrapping materials (column 11, lines 50 - 55).

As to claims 1, 15 and 24, Takahashi teaches a material including a substrate and an abrasion resistant coating layer. Takahashi teaches that substrate can be a paper, plastic film or sheet, or metallic foil or plate (column 1, lines 66 - 67). It is preferable to use a flexible material as the substrate (column 2, line 5). Takahashi teaches that the substrate can be a composite substrate which can be obtained by laminating two or more substrates by any known means, for instance, by the use of an adhesive agent, or by effecting thermal fusion (column 2, lines 66 - 67 and column 3, lines I - 3). The composite substrate comprising two or more substrates is equated to Applicant's "inner protective layer", "base material", "bonding material", "decorative material" and "outer decorative layer". Takahashi teaches that substrate can be a paper, plastic film or sheet, or metallic foil or plate (column 1, lines 66 - 67). Examples of the types of paper are tissue paper, craft paper, titanium paper, linter paper, cardboard, plasterboard paper, raw fabric of so-called vinyl wall paper, high-grade paper, coated paper, art paper, vegetable parchment, glassine paper, animal parchment, paraffin paper and Japanese paper. In addition, paper-like sheets can be used as the substrate such as woven or nonwoven fabrics

produced from inorganic fibers such as glass fiber, alumina fiber, silica fiber and carbon fiber or organic fibers such as polyester of Vinyon (column 2, lines 15 - 27). A plastic sheet can be used as a substrate in the form of an acrylic film (column 2, lines 36-37). It should be noted that the method of forming the "inner protective layer", the "bonding material" and the "outer protective layer" is not germane to the issue of patentability of the composite material itself. Therefore, the limitation of "an aqueous acrylic polymer dispersion medium which is applied wet and bond upon drying is not given weight". Due to the fact that a composite substrate can be used, one embodiment of Takahashi, a composite substrate of 4 layers can be used. For instance, Takahashi teaches a "base material" bonded to an "inner protective layer", a "bonding material" bonded to the second side of the base material, a "decorative layer" such as a paper or a paper-like sheet bonded to the "base material" and an abrasion resistant coating layer, or "outer protective layer", on the opposing side of the "decorative layer". In one embodiment of Takahashi, the "inner protective layer", the "bonding material" and "outer protective layer" can be comprised of acrylic film (column 2, lines 37 - 40).

Takahashi teaches that the substrate can be a composite substrate which can be obtained by laminating two or more substrates by any known means, for instance, by effecting thermal fusion (column 2, lines 66 - 67 and column 3, lines 1 - 3). Therefore, in the embodiment where the "inner protective layer", the "bonding material" and "outer protective layer" are acrylic films, any application of thermal fusion to the acrylic films would bond the "base material" and the "decorative layer" together to created the desired composite of the Applicant.

However, as to claims 1, 5 - 7, 15, 19 and 24, Taskahashi fails to teach that acrylic films which bind the layers together can be in the can be in the form of an aqueous acrylic polymer dispersion medium which is applied wet and bonds upon drying.

Davis is directed to flexible laminates useful for a wide range of applications such as flexible packaging, graphic arts and industrial uses (column 1, lines 25 - 35). Davis teaches a laminate comprising various layers consisting of wovens, non-wovens, paper and other flexible materials (column 2, lines 40 - 60). Davis teaches bonding the layers together using a water-borne laminating adhesive comprising a copolymer of an akyl acrylate or alkyl methacrylate (Abstract). Davis notes that the use of the water-borne laminating adhesive creates a laminate with high bond strength, superior heat resistance and chemical and water resistance (Abstract). It should be noted that acrylic is inherently water resistant and translucent as required by claims 5 -7 and 19.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the water-borne laminating adhesive comprising a copolymer of an alkyl acrylate or alkyl methacrylate as suggested by Davis to laminate the layers of Takahashi motivated by the desire to create a flexible laminate with superior heat, chemical and water resistance.

As to claims 2 and 3, Takahashi teaches that the "base material" can be made out of a paper-like sheet such as a nonwoven comprising fibers such as carbon or alumina fibers (column 2, lines 21 - 26), which are known in the art to be high in strength.

As to claim 4, Takahashi teaches that the substrate can be a composite substrate which can be obtained by laminating two or more substrates, therefore, an additional paper-like layer such as a "woven backing" could be attached to the "base material".

As to claims 10, 11 and 16, Takahashi teaches that the "decorative layer" can be comprised of paper. Vegetable parchment paper among other papers (column 2, lines 14 - 26) typically has a textured finish and can have a generally random wrinkled pattern. Takahashi also notes that is possible to use a substrate having a rough or three-dimensional pattern (column 2, lines 9 - 14).

As to claim 12, Takahashi teaches that the "decorative layer" can be a board such as veneer (column 2, lines 45 - 50), which has a hard finish.

As to claim 13, Takahashi teaches that the "decorative layer" can be a paper such as vegetable parchment paper (column 2, lines 14 - 26), which has a smooth or calendared finish.

As to claim 14, Takahashi teaches that the "decorative layer" can be a paper-like material such as a woven fabric comprising alumina and carbon fibers (column 2, lines 21 - 27). A paper-like material implies a smooth or semi-smooth surface, therefore, the woven fabric would have to be woven tightly to give a smooth appearance. The "decorative layer" would have a hard finish due to fiber content of high strength rigid fibers.

In addressing Applicant's arguments filed on April 16, 2004, the Examiner further asserted in the final Office Action that:

In response to the Applicant's argument that the bonding/binder layer and outer layer materials of the present invention are not the same as Takahashi, the Examiner respectfully argues the contrary. Please see the rejection in paragraph 2 of the previous Office Action mailed December

18, 2003. The Examiner *does not attempt* to equate Takahashi's "abrasion resistant coating layer" which comprises particles and a crosslinkable binder resin to Applicant's "bonding/binding layer" or "outer layer materials". As seen at the end of paragraph 2 of the previous Office Action, the Examiner equates three of the multiple substrates of Takahashi comprising plastic sheets of acrylic resin (see Takahashi, column 2, lines 27 - 45) to Applicant's "inner protective layer", "bonding material" and "outer protective layer". Takahashi teaches that the substrate can comprise multiple laminated substrates such as a plastic sheet among other substrates (see Takahashi, column 2, lines 65 - 67 and column 3, lines 1 - 5).

In response to Applicant's Argument that the limitation that "the inner protective layer, the bonding material and the outer protective layer include an aqueous acrylic polymer dispersion medium which is applied wet and bonds upon drying" is germane to the issue of patentability, the Examiner respectfully argues the contrary. Although the Examiner has made the statement about the nature of the inner protective layer, bonding material and outer protective layer, the Examiner did acknowledge that the acrylic plastic sheet layers of Takahashi are not explicitly disclosed as being formed from an aqueous acrylic polymer dispersion medium which is applied wet and bonds upon drying and therefore, used the Takahashi reference in combination with Davis to meet those deficiencies.

In response to Applicant's Argument that there is lack of motivation in either Takahashi or Davis or combination thereof to use the adhesive of Davis to laminate the layers of Takahashi together, the Examiner respectfully argues the contrary. The Examiner has used the Davis reference to modify Takahashi to further describe the nature of Takahashi's plastic sheets. Since Takahashi is concerned with a decorative laminate with excellent flexibility (column 1, lines 1 -10) and Davis is concerned with flexible laminates (Abstract), it would have been obvious to use the acrylic dispersion of Davis to create the plastic sheets of Takahashi. It should be noted that the Examiner is not suggesting using the adhesive of Davis for the "abrasion-resistant coating layer" of Takahashi. The Examiner is interpreting the "abrasion-resistant coating layer" as an additional layer adjacent to Applicant's "inner protective layer" positioned on the side opposite to Applicant's "base layer".

In response to Applicant's Argument that Takahashi does not disclose that an "inner protective layer", a "bonding material" and an "outer protective layer" can be comprised of an acrylic film, the Examiner respectfully argues the contrary. Takahashi teaches that multiple substrates laminated together may be used as the substrate (column 2, lines 65 - 68 and column 3, lines 1 - 4). Takahashi further notes that one type of substrate can be a plastic sheet (column 2, lines 28 - 29), specifically a single layer or

composite of films of synthetic resins (column 2, lines 29 - 30). Takahashi teaches that one type of synthetic resin that can be used is an acrylic resin (column 2, lines 38).

In response to Applicant's Argument that the references fail to show certain features of applicant's invention such as an aqueous acrylic polymer dispersion which is very safe and easy to work with, can be used with traditional fabrics and equally well suited for commercial mass production as well as home production/use by individuals, it is noted that the features upon which applicant relies are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The Examiner suggests that if those are crucial factors which differentiate the present invention from Davis and Takahaski, then the Applicant should put those limitations in the claims.

Applicant respectfully traverses the Examiners rejection. In that regard, the Applicant respectfully asserts that the Examiner has failed to establish a *prima facie* case of obviousness.

Takahashi et al. discloses a decorative material quite dissimilar from the composite material of the present invention. In that regard, the decorative material of Takahashi et al. must have a substrate and an outer protective layer of a relatively high abrasion resistance bonded to the substrate to make the material of Takahashi et al. useful for various purposes including "decorating the surfaces of buildings, vehicles, ships, furniture, musical instruments, cabinets and the like, and also for decorating wrapping materials." Col. 11, lines 50-57. To achieve the high abrasion resistance the material of Takahashi et al. includes an "abrasion-resistant" coating formed on a substrate or base layer. The abrasion-resistant coating includes spherical inorganic particles having a defined particle diameter and hardness and a binder material including a crosslinkable resin. The crosslinkable resin can be a thermosetting resin such as a two-pack urethane resin, an epoxy resin, an alkyd resin or an unsaturated polyester resin. Col. 5, lines 42-45. The crosslinkable resin of Takahashi et al. is preferably, however, an ionizing radiation-curing resin (cured via irradiation with ionizing energy) such as "unsaturated polyester resin, compounds having (meth)acryloyl group [monofunctional (meth)acrylate, polyfunctional (meth)acrylate, urethane (meth)acrylate, polyester (meth)acrylate, epoxy

(meth)acrylate, etc.], vinyl compounds [styrene, divinylbenzene, etc.], allyl compounds [diallylphthalate, etc.], and mixtures of two or more of these compounds." Col. 6, lines 1-7.

Thus, unlike, the outer protective layer materials (and bonding layer materials) of the present invention, which are formed from an aqueous acrylic polymer dispersion medium upon drying, the polyfunctional meth(acrylate) of Takahashi et al. is an ionizing-radiation-curing (that is, cross-linking) resin.

The Examiner confusingly seems to in one instance equate the high abrasion resistance layer of Takahashi et al. to the outer protective layer of the present invention and in another instance equate one of the layers of a composite substrate of Takahashi et al. to the outer protective layer of the present invention. For example, the Examiner asserts in the Office Action dated December 18, 2003 that:

For instance, Takahashi teaches a "base material" bonded to an "inner protective layer", a "bonding material" bonded to the second side of the base material, a "decorative layer" such as a paper or a paper-like sheet bonded to the "base material" and an abrasion resistant coating layer, or "outer protective layer", on the opposing side of the "decorative layer".

However, in the final Office Action, the Examiner clarified that:

The Examiner *does not attempt* to equate Takahashi's "abrasion resistant coating layer" which comprises particles and a crosslinkable binder resin to Applicant's "bonding/binding layer" or "outer layer materials". As seen at the end of paragraph 2 of the previous Office Action, the Examiner equates three of the multiple substrates of Takahashi comprising plastic sheets of acrylic resin (see Takahashi, column 2, lines 27 - 45) to Applicant's "inner protective layer", "bonding material" and "outer protective layer".

However, one cannot equate layers of the substrate of Takahashi et al. to the inner protective layer, the bonding layer or the outer protective layer of the composite material of the present invention, each of which includes an aqueous acrylic polymer dispersion medium which bonds upon drying. First, as admitted by the Examiner, there is no disclosure or suggestion in Takahashi et al. that any layer thereof is formed of an aqueous acrylic polymer dispersion medium which bonds upon drying.

Also somewhat confusingly, the Examiner first asserts that the claim limitation that “the inner protective layer, the bonding material and outer protective layer include an aqueous acrylic polymer dispersion medium which is applied wet and bonds upon drying”, as it describes “the method of forming the ‘inner protective layer’, the ‘bonding material’ and the ‘outer protective layer’ [of the present invention] is not germane to the issue of patentability of the composite material thereof.” Then the Examiner asserts that although that assertion has been made:

the Examiner did acknowledge that the acrylic plastic sheet layers of Takahashi are not explicitly disclosed as being formed from an aqueous acrylic polymer dispersion medium which is applied wet and bonds upon drying and therefore, used the Takahashi reference in combination with Davis to meet those deficiencies

The Applicant assumes that the Examiner is making two alternative assertions and will address each such assertion.

Without question, the claim limitation that “the steps of bonding includes the steps of applying an aqueous acrylic polymer dispersion medium in a wet state and allowing the aqueous acrylic polymer dispersion medium to dry” is germane to method claims 15, 16 and 19. The Applicant further respectfully asserts that it is error for the Examiner to ignore the limitation as not being germane to the issue of patentability of the composite material claims. In that regard, that an aqueous acrylic polymer medium of the present invention is applied wet and bonds upon drying is clearly a limitation upon the physiochemical nature of the resultant inner protective layer, the bonding material and the outer protective layer of the present invention and is not a process limitation. The Examiner cannot impermissibly ignore this express claim limitation. See Ex Parte Murphy and Burford, 217 USPQ 479, 481 (P.O. Bd. Appls. 1982) (“it is error to ignore specific limitations distinguishing over the cited reference”); In re Boe, 505 F.2d 1297, 184 USPQ 38 (CCPA).

As discussed above, the Examiner admits that there is no disclosure in Takahashi et al. that the outer resin layer thereof or any layer of the substrate thereof is formed from an aqueous acrylic polymer dispersion medium which is applied wet and

bonds upon drying. Nonetheless, the Examiner asserts that it would be obvious to combine the disclosure of Takahashi et al. with that of Davis to meet those deficiencies. Applicants respectfully disagree.

The disclosure of Davis. cannot overcome the deficiencies of Takahashi et al. set forth above. In that regard, unlike the present invention, Davis discloses a process for forming a laminate using an adhesive comprising at least 60% by weight of an alkyl acrylate, alkyl methacralate, styrene or vinyl ester of a saturated monocarboxylic acid having 2 to 10 carbon atoms, or mixtures thereof. Davis does not disclose or suggest a bonding material and an outer protective layer that include an aqueous acrylic polymer dispersion medium which is applied wet and bonds upon drying as claimed in the present invention. To the contrary, the adhesive of Davis requires industrial mechanical application/coating techniques, followed by removal of water and any solvents via oven heating, followed by pressure combination, followed by a 72-hour curing period. At column 3, lines 38-56, Davis sets forth the process of using the adhesive thereof as follows:

In forming the laminate of the present invention, conventional techniques known per se are employed to apply the adhesive emulsion to the film substrate. Thus, these adhesives may be applied by use of any mechanical coating process such as air knife, trailing blade, knife coater, reverse roll or gravure coating technique. Subsequent to its application, the adhesive coated film is then ordinarily passed through an oven to remove substantially all the water and solvent, if any, and then pressure combined (roller nipped) at a temperature from about 25.degree. to 150.degree. C. to form a bond with, for example, a corona treated polyethylene or polypropylene film, or other lamina.

The resultant laminate is characterized by the immediate formation of a strong bond followed by cure during an approximate 72 hour period for development of further strength and heat, chemical and water resistance as required for use as a flexible food package or other end-use

Moreover, the adhesive of Davis is disclosed merely as an intermediate, adhering layer between two other layers of material. There is absolutely no disclosure or suggestion in Davis to use the material thereof as an "outer protective layer" as claimed in the present invention. Further, there is absolutely no motivation in either Takahashi et al.

or Davis for combination thereof to modify the materials thereof to form such an outer protective or surface layer. See, for example, Ex parte Chicago Rawhide Mfg. Co., 223 USPQ 351, 353 (P.O. Bd. Appl. 1984) (“The prior art must provide a motivation or reason for a worker in the art without the benefit of appellant’s specification to make the necessary changes in the reference device.”); Schenk v. Norton, 218 USPQ 698, 702 (Fed. Cir. 1983) (“Modification unwarranted by the disclosure of a reference is improper.”); Ex Parte Acosta, 211 USPQ 636, 637 (P.O. Bd. Appls. 1980) (Examiner’s combination of two references is improper where there is no basis in the record from which it can reasonably be inferred that one skilled in the art would have been led or motivated to modify the primary reference in the manner proposed by the Examiner.). Once again, there is no disclosure or suggestion in Davis that the adhesive thereof is suitable for use as a surface layer such as the outer protective layer of the present invention.

The Examiner is further incorrect, that Takahashi et al. discloses that an “inner protective layer”, a “bonding material” and an “outer protective layer” can be comprised of an acrylic film at column 2, lines 37-40 thereof. Takahashi et al. discloses merely that a substrate to which the abrasion resistant coatings thereof can be applied can comprise such a plastic sheets. Clearly, the term “substrate” as used in Takahashi et al. refers to a foundation material or a substratum material in that it is a material which lies beneath and supports another material (that is, the abrasion resistant coating of Takahashi et al). See also Webster’s New Twentieth Century Dictionary, Second Edition, New World Dictionaries/Simon and Schuster, New York, New York (1983). Takahashi et al. thus does not disclose or suggest, for example, an outer protective layer comprising an acrylic film. The “outer protective layer” of Takahashi et al. must be formed of the abrasion resistant coating thereof for the material of Takahashi et al. to function for its stated purpose.

Furthermore, unlike the materials of Takahashi et al. and Davis et al., the aqueous acrylic polymer dispersion media of the present invention are typically inherently very safe materials that are quite easy to work with – that applied as a wet aqueous dispersion and allowed to dry. Indeed, such media are commercially available as artists’

media. Such materials would be unusable in the articles of Takahashi et al. and Davis. Unlike, the materials of Takahashi et al. and Davis, the composite materials of the present invention can be used in the manner of traditional fabrics. Likewise, and unlike the materials of Takahashi et al. and Davis, the composite materials of the present invention are equally well suited for commercial mass production or for home production/use by individuals. The advantages described above are inherent from the use of aqueous acrylic polymer dispersion media that are applied wet and allowed to dry.

VIII. CLAIMS APPENDIX

The following is a listing of the claims pending in the present application.

1. (Previously presented) A composite material comprising: at least one layer of base material, at least one inner protective layer of a flexible material bonded on one side of the layer of base material, at least one layer of a bonding material on a second side of the base material, at least one decorative layer bonded to the bonding material such that the bonding material is between the layer of base material and the decorative layer, and at least one outer protective layer of a flexible, material bonded to the decorative layer on a side opposite the bonding material, wherein the inner protective layer, the bonding material and outer protective layer include an aqueous acrylic polymer dispersion medium which is applied wet and bonds upon drying.

2. (Previously presented) The composite material of claim 1 wherein the base material is a strong material of greater strength than the flexible material.

3. (Original) The composite material of Claim 1 wherein the base material is a non-woven material or a smooth finish woven material.

4. (Original) The composite material of Claim 1 further including a woven backing attached to the first protective layer on a side thereof opposite the layer of base material.

5. (Original) The composite material of Claim 1 wherein the inner protective layer is at least water resistant.

6. (Original) The composite material of Claim 1 wherein the outer protective layer is at least water resistant.

7. (Original) The composite material of Claim 1 wherein the outer protective layer is translucent.

8.-9. (Cancelled)

10. (Original) The composite material of Claim 10 wherein the decorative layer includes a textured paper.

11. (Original) The composite material of Claim 1 wherein the textured paper includes a generally random wrinkled pattern.

12. (Original) The composite material of Claim 1 wherein the decorative material is a textured material having a hard finish.

13. (Original) The composite material of Claim 1 wherein the decorative material is a textured paper material having a calendered finish or a plate finish.

14. (Original) The composite material of Claim 1 wherein the decorative material is a textured woven material having a tight weave and a hard finish.

15. (Previously presented) A method of fabricating a composite material comprising the steps of: bonding at least one layer of a flexible, water resistant material to one side of a layer of base material, bonding at least one decorative layer to the other side of the layer of base material, and bonding at least one outer protective layer of a flexible, water resistant material to the decorative layer on a side opposite layer of base material, wherein the flexible, water resistant material includes an aqueous acrylic polymer dispersion and wherein the steps of bonding includes the steps of applying an aqueous acrylic polymer dispersion medium in a wet state and allowing the aqueous acrylic polymer dispersion medium to dry.

16. (Original) The method of Claim 15 wherein the decorative layer includes a textured material.

17-18 (Cancelled)

19. (Original) The method of Claim 16 wherein the outer protective layer is translucent.

20- 23 (Cancelled)

24. (Previously presented) A composite material comprising: at least one layer of base material, at least one inner protective layer of an aqueous acrylic polymer dispersion medium bonded on one side of the layer of base material, at least one bonding layer of an aqueous acrylic polymer dispersion medium on a second side of the base material, at least one decorative layer bonded to the bonding material such that the bonding layer is between the layer of base material and the decorative layer, and at least one outer protective layer of an aqueous acrylic polymer dispersion medium bonded to the decorative layer on a side opposite the bonding material.

IX. EVIDENCE APPENDIX

None

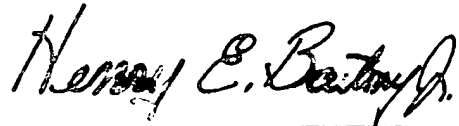
X. RELATED PROCEEDINGS APPENDIX

None

In view of the foregoing, the Appellant respectfully requests that the Board of Appeals and Interferences reverse the Examiner's rejection of the claims and that the Examiner indicate the allowability of Claims 1-7, 10-16, 19 and 24 and arrange for an official Notice of Allowance to be issued in due course.

Respectfully submitted,

GEORGEANN PIETERS

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In re Application of:

Serial No.: 09/849,759

COMPOSITE MATERIAL

Filed: May 4, 2001

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Examiner: Jennifer A. Boyd

Atty Dock No.: 00-053

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Sir:

I hereby certify that the attached **APPELLANT'S APPEAL BRIEF PURSUANT TO 37 C.F.R. §1.191** and any documents referred to as enclosed therewith are being deposited with the United States Postal Service on this date **MARCH 22, 2005**, in an envelope as "Express Mail Post Office to Addressee" Mailing Label Number **EL903357326US**, addressed to the Mail Stop Appeal Brief-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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